



Restitution

Adult, Juvenile Systems

Definition

- Restitution is money paid from the offender to the victim for losses that the victim suffered as a result of the offender's crime.
- The SC Constitution gives a victim the right to full restitution from both juveniles and adults who engaged in the criminal conduct which caused the victim's losses.

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Victim has Standing!

- The defendant, the victim or victims, or their representatives or the victim's legal representative as well as the Attorney General and the solicitor have the right to be present and be heard upon the issue of restitution at any of these hearings.

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- In determining the manner, method, or amount of restitution to be ordered, the court may take into consideration the following:

- (1) the financial resources of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant;
- (2) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

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- (3) the anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment;

(4) any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts;

(5) the mental, physical, and financial well-being of the victim.

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Adult System / Pre-Trial

- An offender can be ordered to pay restitution even in the absence of a criminal prosecution
- Example: Pre-Trial Intervention: the solicitor is required to determine the proper amount of restitution

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Adult / Post- Trial

- The victim must provide to the Solicitor or the Summary Court an itemized list on either a;
- Written Victim Impact Statement
- Separate Restitution Listing

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List to Include:

- Values of property stolen, damaged, or destroyed
- Property recovered
- Medical expenses or counseling expenses, or both
- Income lost as a result of the offense
- Out-of-pocket expenses incurred
- Any other financial losses

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- An itemization of financial recovery from insurance, the offense, victim's comp or other sources
- The victim may be required to provide documentation for these losses

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The Victim Service Provider needs to guide the victim through a list of possible losses

- Lost wages, burial expenses, medical needs, psychological needs, daycare, child care, gas/meals, re-education of skills, moving expenses, clean-up, repair to property, extended family needs, identity change expenses, other travel expenses, prescriptions, housekeeping, emergency shelter, etc.

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Magistrates Court

- Limited to \$5,000 cap: § 22-3-550(A)
- Failure to pay treated as contempt of court

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- The court also retains jurisdiction to modify, at any time, the conditions of probation, including those pertaining to restitution
- The victim has standing to request modification of a restitution order for "good cause"

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Juvenile Restitution

- As a condition of probation, the Family Court may require that a juvenile pay restitution or participate in supervised work or community service
- As a condition of Parole, the Juvenile Parole Board may require a juvenile to pay restitution or work or participate in a community service program

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- A juvenile remains under the authority of the Parole Board until the juvenile's 21st birthday
- The Parole Board has the authority to modify the conditions of release
- The DJJ has established a fund for the compensation of crime victims: § 20-7-6910

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- A juvenile may choose to participate in the Youth Industries Program where a portion of the wages must be deposited to the fund
- 95 % must be paid to the victim to fulfill any court ordered restitution
- The DJJ has a system of transferring such funds from the juvenile to the victim

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